

# Michigan Law Changes Fight SUTA Dumping

Michigan's unemployment compensation law was recently amended. On May 4, 2005, Governor Jennifer Granholm signed into law several changes to the Michigan Employment Security Act that will make it more difficult for employers in Michigan to engage in a practice known as "SUTA (State Unemployment Tax Act) Dumping." These changes are mandated through federal and state legislation. There are several ways an employer can engage in SUTA dumping, but one factor is common to every method – the employer "dumps" or abandons its history of employment (payroll) and unemployment benefit charges, known as the "unemployment experience." This practice avoids the tracking of experience, by shifting employees who should be subject to a higher unemployment insurance (UI) tax rate as the result of their actual layoff history to a lower tax rate. Both the Federal Unemployment Tax Act (FUTA) and the Michigan Employment Security Act provide for an "experience-rated" system of funding unemployment benefits. The law changes, effective July 1, 2005, in combination with the existing law, will:

- Prevent an employer from forming a new business and then transferring existing employees to that business and claiming the 2.7 percent "new employer" tax rate for the sole or primary purpose of reducing the employer's UI tax rate.
- Require an employer's UI tax liability to follow employees when they are shifted to a different business owned or controlled by the same people that operated the first business for the sole or primary purpose of reducing the employer's UI tax rate.
- Require a nonprofit or governmental unit, and an Indian tribe that is a "contributing" employer and pays its UI taxes quarterly, to pay its previous UI debt and its experience account balance before being allowed to convert to reimbursing status. Also, if an employer applies for conversion from reimbursing to contributing status, it must continue to pay its outstanding unemployment benefit payments that were charged to its reimbursing account. A reimbursing employer reimburses the UIA dollar-for-dollar for unemployment benefits paid to its former employees.
- Increase an employer's UI tax rate to the highest possible rate for the current and following three years, if the employer engages in SUTA dumping. A new civil penalty of up to \$5,000 will apply if the person who engaged in the SUTA dumping is not an employer.
- Impose on those who advise their clients to SUTA Dump, the current fraud penalties of four times the amount of avoided taxes. The four-times penalty of the Act's fraud provisions continues to apply to employers who engage in SUTA Dumping.

SUTA Dumping rewards employers for dumping their UI responsibility for past benefit charges on the rest of employers who pay their fair share. If you would like the Agency to review your company for possible SUTA Dumping, please visit our website at [www.michigan.gov/uia](http://www.michigan.gov/uia) and submit an application requesting a review of your account. If our review discloses you have underpaid unemployment taxes due to SUTA Dumping, the Agency will consider reduction of interest and/or penalties based on your cooperation in the process.

If you have any questions about SUTA Dumping, please call our Employer Customer Relations Unit at 1-800-638-3994.